

1 WILLIAM C. O'NEILL / SBN 251071
2 ROSS WERSCHING & WOLCOTT LLP
3 Attorneys at Law
4 3151 Airway Avenue, Building S-1
5 Costa Mesa, California 92626
6 Telephone: (714) 444-3900
7 Facsimile: (714) 444-3901
8 WCO@RossLLP.com

9 Attorneys for Defendant
10 PHOENIX FIBERS, INC.

11 UNITED STATES DISTRICT COURT

12 CENTRAL DISTRICT OF CALIFORNIA

13 SWEET PEOPLE APPAREL, INC.
14 D/B/A MISS ME, a California
15 corporation, and RCRV, INC. D/B/A
16 ROCK REVIVAL, a California
17 corporation,

18 Plaintiffs,

19 vs.

20 PHOENIX FIBERS, INC., an Arizona
21 corporation, SAC INTERNATIONAL
22 TRADERS, INC., a California
23 corporation, SHAUKAT ALI CHOCHAN,
24 an individual, COMAK TRADING, INC.,
25 a California corporation, LYDIA
26 EVILSA TERRAZAS CHO, an
27 individual, MYUNG KWON CHO, an
28 individual, XYZ COMPANIES 1-10, and
JOHN AND JANE DOES 1-10,

Defendants.

Case No.: 2:16-cv-00940-TJH-JC

Assigned for All Purposes to:
Hon. Terry J. Hatter Jr.

**DEFENDANT PHOENIX FIBERS,
INC.'S ANSWER TO U.S. GENERAL
EXPORT'S CROSSCLAIM**

DEMAND FOR JURY TRIAL

1
2 Defendant Phoenix Fibers, Inc. (“Defendant”) hereby answers the Crossclaim
3 filed by Defendant and Cross-Plaintiff U.S. General Export, Inc. (hereinafter “U.S.
4 General Export”) as follows:

5
6 1. Defendant lacks sufficient information upon which to admit or deny the
7 truth of the “answer and defenses” incorporated into Paragraph 1, and on that basis
8 denies the allegations of said Paragraph.

9
10 2. Defendant admits that this Court has jurisdiction over the subject matter
11 of these Crossclaims.

12
13 3. Though Defendant denies the factual underpinnings of the trademark
14 claims set forth in the Complaint, Defendant admits that the Crossclaims arise out of
15 the same series of such alleged transactions and occurrences.

16
17 4. Defendant admits that this Court has jurisdiction over the subject matter
18 of these Crossclaims.

19
20 5. Defendant admits that this Court has personal jurisdiction over
21 Defendant for the purposes of this dispute.

22
23 6. Defendant admits that venue is proper in this Court.

24
25 7. Defendant admits that it is a corporation organized under the laws of the
26 State of Arizona with its principal place of business located at 400 East Ray Road,
27

Chandler, Arizona 85225.

8. Defendant lacks sufficient information upon which to admit or deny the truth of the factual allegations contained in Paragraph 8, and on that basis denies the allegations of said Paragraph.

9. Defendant lacks sufficient information upon which to admit or deny the truth of the factual allegations contained in Paragraph 9, and on that basis denies the allegations of said Paragraph.

10. Defendant is informed and believes that the allegations contained in paragraph 10 are true and on that basis admits the allegations therein.

11. Defendant admits that during 2015, U.S. General Export purchased bulk shipments of credential and other baled or loose clothing and shoes from Defendant that included (among other things) some product donated by Plaintiffs. Defendant lacks sufficient information upon which to admit or deny the truth of the remaining factual allegations contained in Paragraph 11, and on that basis denies the allegations of said Paragraph.

12. Defendant denies that it “impliedly promised” anything to US General Exports. Defendant lacks sufficient information upon which to admit or deny the truth of the remaining factual allegations contained in Paragraph 12, and on that basis denies the allegations of said Paragraph.

13. Defendant denies the allegations contained in Paragraph 13.

1
2 14. Defendant lacks sufficient information upon which to admit or deny the
3 truth of the factual allegations contained in Paragraph 14, and on that basis denies the
4 allegations of said Paragraph.

5
6 15. Defendant lacks sufficient information upon which to admit or deny the
7 truth of the additional factual allegations contained in Paragraph 15, and on that basis
8 denies the remaining allegations of said Paragraph.

9
10 16. Defendant incorporates by reference its responses in paragraphs 1-15.

11
12 17. Defendant admits that during 2015, U.S. General Export purchased bulk
13 shipments of credential and other baled or loose clothing and shoes from Defendant
14 that included (among other things) some product donated by Plaintiffs. Defendant
15 denies the remaining allegations concerning terms of an agreement.

16
17 18. Defendant denies the factual allegations contained in Paragraph 18.

18
19 19. Defendant denies the factual allegations contained in Paragraph 19.

20
21 20. Defendant denies the factual allegations contained in Paragraph 20.

22
23 21. Defendant incorporates by reference its responses in paragraphs 1-20.

24
25 22. Defendant admits that during 2015, U.S. General Export purchased bulk
26 shipments of credential and other baled or loose clothing and shoes from Defendant
27

1 that included (among other things) some product donated by Plaintiffs. Defendant
2 denies the remaining allegations concerning terms of an agreement.

3
4 23. Defendant denies the factual allegations contained in Paragraph 23.

5
6 24. Defendant denies the factual allegations contained in Paragraph 24.

7
8 25. Defendant denies the factual allegations contained in Paragraph 25.

9
10 26. Defendant lacks sufficient information upon which to admit or deny the
11 truth of the additional factual allegations contained in Paragraph 26, and on that basis
12 denies the allegations of said Paragraph.

13
14 27. Defendant lacks sufficient information upon which to admit or deny the
15 truth of the additional factual allegations contained in Paragraph 27, and on that basis
16 denies the allegations of said Paragraph.

17
18 28. Defendant lacks sufficient information upon which to admit or deny the
19 truth of the additional factual allegations contained in Paragraph 28, and on that basis
20 denies the allegations of said Paragraph.

21
22 29. Defendant lacks sufficient information upon which to admit or deny the
23 truth of the additional factual allegations contained in Paragraph 29, and on that basis
24 denies the allegations of said Paragraph.

1 US GENERAL EXPORT'S PRAYER FOR RELIEF

2
3 As to Plaintiffs' Prayer for Relief, Defendant denies that U.S. General Export
4 is entitled to the relief requested in its prayer against Defendant and specifically
5 denies that U.S. General Export is entitled to any relief whatsoever against
6 Defendant.

7
8
9 **AFFIRMATIVE DEFENSES**

10
11 As separate and affirmative defenses, Defendant alleges as follows:

12
13 **FIRST AFFIRMATIVE DEFENSE**

14 **(Failure to State a Claim)**

15 1. The Cross-Claim and each and every claim alleged therein fails to state
16 a claim upon which relief may be granted.

17
18 **SECOND AFFIRMATIVE DEFENSE**

19 **(Estoppel)**

20 2. US General Export's purported causes of action, and each of them, are
21 barred by the doctrine of estoppel due to US General Export's knowledge and acts.

22
23 **THIRD AFFIRMATIVE DEFENSE**

24 **(Waiver)**

25 3. US General Export's purported causes of action, and each of them, are
26 barred by the waiver of estoppel due to US General Export's knowledge and acts.

FOURTH AFFIRMATIVE DEFENSE

(Parol Evidence Rule)

4. US General Export's purported causes of action, and each of them, are barred by the parol evidence rule.

FIFTH AFFIRMATIVE DEFENSE

(Statute of Frauds)

5. US General Export's purported causes of action, and each of them, are barred by the statute of frauds.

DEFENDANT'S PRAYER FOR RELIEF

WHEREFORE, Defendant prays for judgment as follows:

1. That US General Export take nothing by reason of its Cross-Claim, that judgment be rendered in favor of Defendant;

2. That Defendant be awarded its costs of suit incurred herein, including reasonable attorneys' fees to the extent permitted by law; and

///

///

///

///

///

1 3. For such other and further relief as the Court deems proper.
2

3 DATED: July 19, 2016

ROSS WERSCHING & WOLCOTT LLP

5
6 By: /s/ William C. O'Neill

WILLIAM C. O'NEILL

Attorneys for Defendant

PHOENIX FIBERS, INC.

ROSS WERSCHING & WOLCOTT LLP
ATTORNEYS AT LAW
3151 AIRWAY AVENUE, SUITE-1
COSTA MESA, CA 92626
(714) 444-3900

ROSS WERSCHING & WOLCOTT LLP
ATTORNEYS AT LAW
3151 AIRWAY AVENUE, SUITE-1
COSTA MESA, CA 92626
(714) 444-3900

JURY DEMAND

Defendant hereby demands trial by jury.:

DATED: July 19, 2016

ROSS WERSCHING & WOLCOTT LLP

By: /s/ William C. O'Neill
WILLIAM C. O'NEILL
Attorneys for Defendant
PHOENIX FIBERS, INC.